

Senate File 182 - Introduced

SENATE FILE 182

BY PETERSEN

A BILL FOR

1 An Act relating to limitations of criminal actions by extending
2 the limitation period of time for fraud or breach of
3 fiduciary obligation, and expanding the periods of time
4 excluded from the limitation due to concealment and lack of
5 evidence to prosecute.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 802.5, Code 2017, is amended to read as
2 follows:

3 **802.5 Extension for fraud, fiduciary breach.**

4 If the periods prescribed in sections 802.3 and 802.4 have
5 expired, prosecution may nevertheless be commenced for any
6 offense a material element of which is either fraud or a breach
7 of fiduciary obligation within one year after discovery of the
8 offense by an aggrieved party or by a person who has legal duty
9 to represent an aggrieved party and who is not a party to the
10 offense, but in no case shall this provision extend the period
11 of limitation otherwise applicable by more than ~~three~~ seven
12 years.

13 Sec. 2. Section 802.6, Code 2017, is amended by adding the
14 following new subsection:

15 NEW SUBSECTION. 3. The time within which an indictment or
16 information must be found shall not include the time during
17 which the accused person conceals evidence of the offense,
18 evidence sufficient to charge the person with the offense is
19 unknown to the prosecuting attorney, and the offense could not
20 have been discovered by the prosecuting attorney through the
21 exercise of due diligence.

22 **EXPLANATION**

23 The inclusion of this explanation does not constitute agreement with
24 the explanation's substance by the members of the general assembly.

25 This bill relates to limitations of criminal actions
26 (statute of limitations) by extending the limitation for fraud
27 or breach of fiduciary obligation, and expanding the periods of
28 time excluded from limitations.

29 Under the bill, if the limitation periods in Code sections
30 802.3 (felony — aggravated or serious misdemeanor) and 802.4
31 (simple misdemeanor — ordinance) have expired, the time
32 period to prosecute may be extended for any criminal offense
33 within one year after discovery of the criminal offense,
34 where a material element of the offense contains either fraud
35 or a breach of fiduciary obligation, but the time period to

1 prosecute the criminal offense shall not be extended by more
2 than seven years. Currently, the time period to prosecute
3 a criminal offense where a material element of the offense
4 contains either fraud or a breach of fiduciary obligation
5 may be extended within one year of discovery of the criminal
6 offense, but the time period to prosecute the criminal offense
7 shall not be extended by more than three years.

8 The bill also excludes from the statute-of-limitations
9 period the time period during which the accused person conceals
10 evidence of the offense, evidence sufficient to prosecute
11 the person with that offense is unknown to the prosecuting
12 attorney, and the offense could not have been discovered by the
13 prosecuting attorney through the exercise of due diligence.